

Department of Planning & Community Development



A meeting of the Franklin County Planning Commission was held on February 10, 2015, in the Franklin County Board of Supervisors meeting room located in the Franklin County Government Center.

THOSE PRESENT:

C. W. Doss, Jr. – Blue Ridge District
Edmund “Doc” Law – Rocky Mount District
Angie McGhee – Boone District
Sherrie Mitchell – Snow Creek District
Earl Webb – Blackwater District

THOSE ABSENT:

James Colby – Gills Creek District
Wendy Ralph – Union Hall District

OTHERS PRESENT:

B. James Jefferson, County Attorney
Neil Holthouser, Director of Planning & Community Development
Susannah Smith, Senior Planner, Current Planning Manager
Lisa Cooper, Senior Planner, Long Range Manager
Lori Crouch, Clerk

The meeting was called to order by Chairman Earl Webb at 6:05 PM in the Board of Supervisors Meeting Room. The first order of business was the approval of the minutes from the January 13, 2015 meeting. Mrs. Sherrie Mitchell, representative of the Snow Creek district made a motion to approve the minutes as written. The motion was seconded by Mrs. Angie McGhee, representative of the Boone District. Chairman Webb noted we have a motion and second for approval all in favor say aye. The minutes stand approved.

(RESOLUTION 02-15-1):

BE IT THEREFORE resolved as intended to promote the health, safety and general welfare of the public and to implement the adopted Comprehensive Plan for the orderly and controlled development of the county by the Franklin County Planning Commission to approve the January 13, 2015 minutes as written and presented.

MOTION: Mitchell

SECONDED: McGhee

Voting on the motion was as follows:

AYES: McGhee, Doss, Webb, Mitchell, Law,

NAYES:

ABSENT: Ralph, Colby

ABSTAIN:

PETITION FOR SPECIAL USE PERMIT – Petition of **Stephen E. Brooks and Patricia A. Brooks, Petitioner/Owner** requesting a Special Use Permit for "Short Term Tourist Rental of Dwelling" on a +/- 1.011 acre parcel of land, located at 410 Sourwood Drive in the Gills Creek District of Franklin County, and further identified by Franklin County Real Estate records as Tax Map/Parcel # 0130601700. (Case # SPEC-1-15-13717)

Chairman Webb stated that due to the response of the petition there would be a time limit of 3 minutes per person to speak. Mr. Webb also asked that those requesting to speak rather than repeat the same sentiment of the citizen previous to them; they were directed to state that they concur with the statement being made.

Ms. Susannah Smith presented the planning commission with the petition of a Special Use Permit for the petitioner/owners, Stephen E. Brooks and Patricia A Brooks. Presently there is one (1) site-built home on the

property. In order to allow any short-term rental of the existing dwelling, defined as rental occupancy for a period of less than thirty (30) days, a Special Use Permit is required to be issued by the Board of Supervisors under Section 25-179. Mrs. Smith stated in the submitted documents that the Brooks would like to be able to "offer the home as an exclusive location for vacation or special events on occasional basis, including short-term rental". Ms. Smith also added that in reviewing the application, staff notes that the nearest residence to the property lies within the minimum setback requirements directly to the east of this lot. Within the cove where the residence's private boat dock is situated, there are several other adjacent properties that contain docks or that provide access to the water within close proximity to the applicant's dock area.

It was noted that the property in its current configuration meets all setback and zoning requirements for single family dwellings in the A1 (Agricultural) District. The applicants have submitted a concept plan, showing the location of the home, private dock, driveway and parking area, and have indicated some areas where existing landscaping provides some visual screening to adjacent properties. There are no plans for further improvements or changes to the property at this time. Ms. Smith explained that according to Franklin County's Comprehensive Plan this property is in an area of Low Density Residential use. While low density residential areas are typically comprised of traditional neighborhood developments they may also include manufactured housing, free standing townhomes, patio homes and other similar building types. Ms. Smith stated that the staff recommends that the Planning Commission consider and approve the following recommendation to the Board of Supervisors to deny this request for a special use permit for the use of short-term tourist rental of dwelling. Ms. Smith thanked the planning commission and asked if there were any questions. There were no questions at this time by the planning commission.

Mr. Stephen Brooks introduced himself and thanked the planning commission for allowing him to speak. He stated that he had a short presentation from the staff report that was given to him to review the night before. Mr. Brooks commented on the staff report from page 2 paragraph 4 with concerns to the increase in traffic and tourist activity. Mr. Brooks stated that he and his family own 5 cars and have 6 drivers in the family. He feels that the traffic would be less with a renter than even with his own family. Mr. Brooks stated, to the negative impact that was noted in the staff report page 7 paragraph 3 was not spelled out or addressed. In regards to the buffering and privacy issues that were stated on staff report page 8 paragraph 4, pictures of the property were shown where according to Mr. Brooks there is sufficient buffering on both the right and left of the property. Mr. Brooks concluded that the special use permit would actually constitute fewer cars or persons than the property has seen over the last several years as over 500 people have been to and used the property. Mr. Brooks stated that there are positives to the planning commission recommending an approval for the special use permit; there would be more opportunity for visitors to help create revenue in the area. It would cause them to maintain the home in the "Home Tour" state that it is currently. Visitors coming in become future buyers in the area. There would also be a economic impact on the area with the visitors shopping, dining, and being entertained. Mr. Brooks reiterated that the traffic would be considerably less than the usual. As for the strangers in the area, Mr. Brooks stated everyone sitting here, to them he is a stranger, this is a normal reality. Mr. Brooks gave a quick presentation regarding the property value impact to the surrounding area; he believes there would be no pricing or value impact, either good or bad. Mr. Brooks concluded by thanking the planning commission for allowing him this opportunity and asked if they had any questions for him at this time.

There were no questions from the planning commission at this time.

The hearing was, at this time, opened for public comments.

Mr. John Layton, of Idlewood Shores Subdivision, Hardy, acknowledged that the petition is excellent. Nothing he would state is to be taken personally. Mr. Layton asked the planning commission to note the

letter that he had sent in regards to the petition and that he would not belay the matter; but had a few things he would like to voice his opinion on. Mr. Layton believes there would be far reaching implications that could potentially cause problems in other areas. Mr. Layton stated that approximately 58% of the home owners in the area, these homes are second homes. By the planning commission recommending an approval of the petition it would set a precedent to those that own a second home. Mr. Layton disagreed with Mr. Brooks information regarding the effect the rental property would have on the value of the other homes in the area. Mr. Layton believes the value would be negatively affected. Lastly, Mr. Layton wondered who would be responsible for the renters; there are safety concerns with the home owners absence. Mr. Layton requested of the planning commission to recommend to deny the petition due to the far reaching implications this would cause with a recommendation of approval. Mr. Layton thanked the planning commission for their time.

Ms. Nancy Swartz, living 2 doors down from the Brooks family, stated that yes, this is a low density area and that they live at the end of a cul-de-sac. Ms. Swartz stated that due to being at the end of the road there is not all that much traffic and there is not much boat traffic in this area. Ms. Swartz stated this is what she likes about the area. She does not want all the noise and increased traffic. Ms. Swartz is concerned about who would monitor parties that the renters would have and the inappropriate use of the property and lake. Those uses are not wanted in this area. Ms. Swartz commented that they would lose the sense of community; of knowing each other. Ms. Swartz had concerns of safety issues as well. She lives alone and is concerned about what would happen. Ms. Swartz commented that if the planning commission is open to making a recommendation for approval they are asking for more problems. Ms. Swartz thanked the planning commission.

Mr. Stephen Quinnan, of 163 Windmar, stated that he is opposed to both petitions, Brooks and Pagans. Mr. Quinnan commented that before moving to this area, he lived near a lake that allowed tourist activities. It had a devastating effect on that area. Mr. Quinnan said that he moved to Franklin County specifically because they didn't allow short-term rental. Quinnan does not believe the statement Mr. Brooks made in regards to the value of the property is true. Mr. Quinnan commented that he was not the only one here that was in opposition to the petition. Quinnan asked the planning commission if he could ask those in attendance by a show of hands who were opposed to both these petitions. Mr. Webb agreed. It was noted that all in attendance, minus the petitioners, were opposed to the petitions for special use permit of a short term-tourist rental of dwelling. Mr. Quinnan thanked the planning commission.

Mr. Eddie Fort, resident of Sourwood, owning 2 properties. Mr. Fort is a contractor in the area for the last 30 years. Mr. Fort stated that when he meets with clients, many prefer to build in Franklin County because there is no short term rentals and they want the privacy this affords them. Mr. Fort noted that if the planning commission recommends an approval for this one, they will be opening a flood gate. Mr. Fort thanked the planning commission for their time.

Ms. Gail Taylor, of Hampton Drive, stated that by the planning commission recommending an approval they would be setting a precedent. Ms. Taylor also stated that she and others did not want this for their area. Taylor thanked the planning commission.

There were no other comments from the public at this time.

Public hearing was closed and moved into Regular session.

Mr. Holthouser asked if the planning commission had any further questions of the staff or petitioner. Mrs. Sherrie Mitchell asked if there were any records of a recommendation for approval of any short-term rental in an A-1 zone. Mr. Holthouser deferred to Mrs. Smith. Mrs. Smith stated that in the research, there were none found with an approved special use permit for short term rental. Mr. Holthouser clarified for Mr. Brooks the analysis regarding the traffic concerns. Holthouser stated that most of the comments came from our development review team meeting where VDOT was concerned about the excess traffic this may cause in the area. The staff began by looking at the zoning and the general compatibility of this petition for special use permit. The staff also looked at the comprehensive plan in this area and the shoreline is low density residential with smaller lots and minimal buffering.

Mr. Brooks was invited by Chairman Webb to re-address the public comments. Mr. Brooks stated that he respects all those that have spoken this evening. Brooks understands the uses of A-1 and request for special use permit, but has a hard time seeing the desirability of wide open farm land for a special use permit for short-term rentals. Mr. Brooks addressed the questions raised by many of the public comments in regards to maintenance. Mr. Brooks stated that he lives 46 miles from the property and that the maintenance would not lapse. Mr. Brooks also made comment to one of the other comments that was reiterated on the safety of the lake. He did not understand how he or anyone could manage or control the waterway. Mr. Brooks believes that this is his right as a home owner. Mr. Brooks had no other comments and there were no other questions from the planning commission.

Mr. Earl Webb stated he wasn't sure what the impact this petition would have on the neighborhood. Mrs. Sherrie Mitchell stated she thought the home was too close to the neighbor. But that the applicant did have some very good points. Mrs. Angie McGhee agreed with Mitchell on her comments and also commented that Franklin County as a rule doesn't allow short-term rental; that it is very hard to get to know the neighbors when they are changing. McGhee also said community is important. She commented that there is much opposition.

Mr. Earl Webb asked for a motion in regards to the special use permit for short-term rental of dwelling in the case of SPEC-1-15-13717. Mrs. Sherrie Mitchell, representative of Snow Creek district, motioned to recommend to the Board of Supervisors to deny the petition for special use permit for short-term tourist rental of dwelling. The motion was seconded by Mrs. Angie McGhee, representative of Boone district.

(RESOLUTION 02-15-2):

BE IT THEREFORE resolved that I find that the proposal is of substantial detriment to adjacent property and that such use will not aid in the creation of a convenient, attractive, or harmonious community. Therefore I move to recommend to deny the request for the Special Use Permit:

MOTION: Mitchell

SECONDED: McGhee

Voting on the motion was as follows:

AYES: McGhee, Doss, Law, Mitchell, Webb

NAYES:

ABSENT: Ralph, Colby

ABSTAIN:

PETITION FOR SPECIAL USE PERMIT PETITION FOR SPECIAL USE – Petition of **Michael Pagans & Sylvia Pagans, Trustee, Petitioner and Pagans Living Trust, Owner** requesting a Special Use Permit for "Short Term Tourist Rental of Dwelling" on a +/- 7.882 acre parcel of land, located at 3140 Kemp Ford Road located in the Union Hall District of Franklin County, and further identified by Franklin County Real Estate records as Tax Map/Parcel # 0520003610A. (Case # SPEC-1-15-13715)

Ms. Susannah Smith presented to the planning commission the petition by the property owners Michael Pagans & Sylvia Pagans requests a Special Use Permit for "Short Term Tourist Rental of Dwelling" for the property at 3140 Kemp Ford Road in Union Hall. Presently there is one (1) site-built home on the property. In order to allow any short-term rental of the existing dwelling, defined as rental occupancy for a period of less than thirty (30) days, a Special Use Permit is required to be issued by the Board of Supervisors under Section 25-179. Michael & Sylvia Pagans have stated in the submitted documents that they would like to be able to rent the property for less than a minimum of thirty (30) days, and do not wish to be prevented from making "economically viable use of" the property. Their letter of application states that the house is in a private location, approximately 1,000 feet off the public road and predominantly surrounded by woods. The letter also states the property is not in a planned development or subdivision.

In reviewing the application, staff notes that the nearest residence to the property lies approximately 150' feet to the north. Within the cove where the residence's private boat dock is situated, there are no other adjacent properties that contain docks or that provide access to the water. Further, most of the surrounding properties, as well as the property itself, are wooded and give the appearance of a remote, private area.

The property in its current configuration meets all setback and zoning requirements for single family dwellings in the A-1 (Agricultural) District. The applicants have not submitted a concept plan, but have included an aerial photograph of the property showing the location of the home, private dock, wooded and open areas, driveway and circular parking area, and extensive shoreline at Smith Mountain Lake. There are no plans for further improvements or changes to the property at this time.

Staff believes that the subject property is generally appropriate for the use of short-term tourist rental. The lot is relatively large. Its house is set back sufficiently from neighboring structures. Its dock and beach area are in a relatively private cove, away from neighboring docks. The property is not part of a residential subdivision.

In order to ensure compatibility and mitigate any potential negative impacts, staff recommends that the granting of a Special Use Permit for "short-term tourist rental of a dwelling" be accompanied by conditions intended to preserve existing site conditions.

Therefore the staff recommends that the planning commission consider and approve the following:

The Planning Commission recommends that the Board of Supervisors approve this request for Special Use Permit, with the following conditions:

1. Dwelling specified. *The use of "Short-Term Tourist Rental of Dwelling" shall apply only to the existing dwelling located at 3140 Kemp Ford road, and shall not extend to any other dwelling that may be developed on this site in the future.*
2. Subdivision. *The use of "Short Term Tourist Rental of Dwelling" shall not extend to any lot resulting from the subdivision of this parcel, including family division.*
3. Buffering. *The use of "Short Term Tourist Rental of Dwelling" shall require the perpetual maintenance of a wooded buffer along the north property line, measuring not less than fifty feet (50') in depth, as measured perpendicular to the north property line.*

Mrs. Smith thanked the planning commission and introduced Mr. Pagans as the next petitioner.

Mr. Matt Pagans introduced himself as the son of Michael & Sylvia Pagans and would be speaking on their behalf. Mr. Pagans began by showing a screen shot from Google maps of the property. Mr. Pagans stated for the planning commission that to the south of the property there is a campground that is in use in this same area. Mr. Pagans made comment that the property was very private. Mr. Pagans also felt that the shoreline was misrepresented in the staff report but that it was closer to 1000' of shoreline. Mr. Pagans stated that they strongly object to the conditions that were being suggested. That they are disproportional. Mr. Pagans also informed the planning commission that both Bedford County and Pittsylvania County do allow short-term rentals and that they are not being adversely affected. Mr. Pagans, as an agent sees others that want to rent short term. That by the planning commission recommending a denial they are ruling out other buyers in the area. Mr. Pagans stated that this is just a way to take their land and it is an unreasonable precedent. Mr. Pagans argued the setback of Commercial district is 40', Industrial district is 50' and a Planned Community Development is 25'. Mr. Pagans stated that Residential is not higher than the others. There is no justification to the setback, that the report does not identify or support the conditions purposed. Mr. Pagans stated the conditions #1 and #2 are trying to attach the special use permit to the dwelling not the parcel; which is wrong, It should stay with the parcel. Mr. Pagans believes that condition #3 is an overburden to the owner, that other zoning does not require buffering. Mr. Pagans argued that the 50' perpetual buffer easement is without just cause and without compensation. Mr. Pagans also argued that the staff report measured the nearest property line at 150' when in reality it is 190'. Mr. Pagans stated that the measurement was taken from the garage, which is not a dwelling. Mr. Pagans commented that the neighbor directly beside the house had no objections to the petition. Mr. Pagans also corrected the staff report by saying the shoreline was not measured correctly and questioned the planning commission and staff whether they had even been out to the site, as is required. Mr. Pagans surmised that the only views were from Google maps and not eyewitness experience. Mr. Pagans also questioned the staff report in regards to the wetlands that were identified. Mr. Pagans emphatically denied there being a wetland in that area. Mr. Pagans brought up a slide to show the shoreline classification map. Mr. Pagans concluded by thanking the planning commission and asked if they had any questions. The planning commission had no questions at that time.

Mr. Webb opened the hearing up to public comment at this time.

Mr. Dale Quinn, of Rockfish Bay, stated that he is a neighbor and in the neighborhood. Mr. Quinn asked that the planning commission please refer to his letter that was sent. Mr. Quinn highlighted the issue of noise and that it does travel over the water and can be louder than over land. Mr. Quinn commented on the concern of the damage that would be done by renters if allowed and the safety of others, especially if the owners are not present or monitoring. Mr. Quinn wants to keep the area maintained as it is. Mr. Quinn asked the planning commission to recommend a denial of the special use permit. Mr. Quinn stated that when people have purchased in the area, they are aware of the "rules" of no short term rentals. Mr. Quinn feels that an approval of this special use permit would cause harm and jeopardize others. Mr. Quinn thanked the planning commission.

Mrs. Linda Quinn, of Rockfish Bay, stated that she is in agreement with all the others that have spoken previously. She is also opposed to short term rental. Mrs. Quinn agrees that long term rental is fine, as she stated they, in fact, had done that before moving to their current home. Mrs. Quinn commented that those that rent for long term become part of the community. Mrs. Quinn stated that if you go deeper into the cove where the property is located, there is more space on the water and where more problems would occur. Mrs. Quinn asked the planning commission to recognize that they would be setting a precedent, what is to be gained by recommending an approval.

Mr. Doug Campion, of 3203 Kemp Ford Road, is a full time resident. Mr. Campion has property at the Outer Banks as well that he is trying to sell at a loss due to the tourism. Mr. Campion stated that this petition is of a personal nature for him. Mr. Campion stated that he is representing the BUBBA's of the community and several others in the audience. The BUBBA's are a social club and volunteer group that do work around the lake area. Mr. Campion stated that the BUBBA's meet on Thursday mornings to work and discuss local issues. That is partly why they are here, Mr. Campion stated, as it was brought to their attention during one of the meetings. The BUBBA's have adopted a Highway, which is Kemp Ford Road and are diligent to keep this area clean. Mr. Campion stated that he as well as those he represents are unequivocally opposed to the special use permit for short term rental. Mr. Campion also commented that he was not happy with the recommendation by the staff for a recommendation of approval. He stated that Franklin County has a competitive edge over Bedford county, by not allowing short term rentals and we should keep that edge. The primary reason buyers purchase in Franklin county is that the area is quiet, private and there are no short-term rentals. Mr. Campion agrees that the area will not stay "rural" as there is still land around him to be developed, but they will stay "remote". Without the short term renters there is less noise, parties, or complaints. Mr. Campion stated this is our home, not vacationers. We live here. Do you or others want a different neighbor every week? Mr. Campion thanked the planning commission for their time.

Ms. Gail Taylor, of Hampton Drive, stated that she was sorry not to see Mrs. Wendy Ralph, representative of the Union Hall district, at the meeting. Ms. Taylor again stated that this would set a precedent if the special use permit was allowed to go forward. Ms. Taylor directed the planning commission to the letter that she has submitted. Ms. Taylor is a neighbor to the Pagans, across the narrow cove from one another. She is concerned about the noise and safety. Ms. Taylor asked the planning commission to please recommend denial. Ms. Taylor again thanked the planning commission.

Mr. Rick Box, of 305 Hayley Scott, stated that Mr. Matt Pagans had made a comment concerning their constitutional rights, but believes zoning has nothing to do with your constitutional rights. Mr. Box thanked the planning commission.

Mr. Randall Cummins, of 3579 Kemp Ford Road, asked the question, once the recommendation is approved can it be rescinded? Mr. Cummins asked also, how this would work?

Ms. Nancy Swartz, of Sourwood Drive, also asked the question, can it be rescinded?

At which time, Mr. Neil Holthouser stated there is an 18 month period in which the petitioner has to commence use. Which would allow plans to be set into motion. The petition does not die unless conditions are not met. There are regulations on how the short-term rental behaves and is enforced, but it does not rescind once in place.

There were no further public comments made.

Mr. Earl Webb closed the public comment session, stating that applicant may re-address public comments.

Mr. Matt Pagans commented that Mr. Quinn lives in an R-1 subdivision. Mr. Pagans stated that the public opinion of the impact that the short-term rentals would create is in fact not what they claim it to be. Pagans also commented on the precedent of recommending an approval of rentals to the area is allowed in the County in an A-1 district not as a waiver but with a special use permit. Pagans also commented to the "rumors" that were going around that they are moving away, that in fact is untrue. They have inherited a home just across the bay. Mr. Pagans reminded the planning commission that there is a campground

within the cove, closer to their property and the Quinn's. Pagans also reminded the planning commission that their shoreline is long and very private that only their dock is in that cove. Mr. Pagans wants the exposure of the property and by restricting people from developing their properties will make an impact on the area. Mr. Pagans had no further comments and the planning commission had no further questions.

Mr. Webb closed the re-address and the planning commission went into discussion. Mr. Webb stated he was leaning toward recommending an approval with conditions but that the applicant objected to them and had talked him out of the recommendation. Mrs. Sherrie Mitchell commented that she felt the same way. Mrs. Angie McGhee concurred with both Webb and Mitchell. Mr. C.W. Doss asked a question of staff regarding the dwelling units and subdivision meaning in the staff report. Mr. Holthouser answered that in the condition they would not be allowed to make the home into a duplex, but that they may have another dwelling unit on the property for use by family members.

Mr. Webb asked for a motion of recommendation in regards to SPEC-1-15-13715. Mrs. Sherrie Mitchell, representative of Snow Creek district motioned to recommend to the Board of Supervisors to deny the petition for special use permit for short term tourist rental of dwelling. The motion was seconded by Mrs. Angie McGhee, representative of Boone district.

(RESOLUTION 02-15-3):

BE IT THEREFORE resolved that I find that the proposal is of substantial detriment to adjacent property and that such use will not aid in the creation of a convenient, attractive, or harmonious community. Therefore I move to recommend to deny the request for the Special Use Permit:

MOTION: Mitchell

SECONDED: McGhee

Voting on the motion was as follows:

AYES: McGhee, Doss, Mitchell, Webb

NAYES: Law

ABSENT: Ralph, Colby

ABSTAIN:

There was a short break before the work session.

Mr. Neil Holthouser stated he and Mrs. Lisa Cooper would like to update the planning commission on the progress on the comprehensive plan. Mrs. Cooper stated that by the next meeting we would have new binders for each member. If everything can be done to the planning commissions satisfaction she could present it to the Planning Commission public hearing in April or May. Then go to the Board by May or June; have this accomplished before this summer. We are working on maps, policies, goals and objectives are mostly finalized. We are working on future land use and policies. The question was asked if the staff would be recommending the prohibiting of short-term rentals in an A-1 district in this standard. Mrs. Cooper stated she was not here in 1988 when the Board voted to adopt the current standard. Mrs. Cooper assumes that when the current standard was written that more of the county was zoned A-1 and the Board wanted to give individuals the freedom in an A-1 to receive a special use permit for short-term rentals. But that they would be determined on a one to one basis. Mrs. Cooper stated because there has been much discussion the Board may want to determine to make some changes to short term rentals. Some discussion by the planning commission continued regarding the zoning of A-1 and the special use permit for short term rentals "not being allowed" in the county. Which is not correct, they are allowed but under a SUP. Mr. Holthouser wanted to remind the planning commission that the zoning ordinance is not just for the lake but for the whole county where short term rentals would be appropriate on a larger tract of land off the lake.

With no other discussion the meeting was adjourned.

Clerk

Date